IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 12TH NOVEMBER 2007 / 21ST KARTHIKA 1929

Bail Appl..No. 6723 of 2007(Y)

CRIME NO. 400/07 OF PATHANAPURAM POLICE STATION
CMP.9263/2007 of J.M.F.C.-III, PUNALUR

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PETITIONER/ACCUSED:

YOUSEPH, AGED 30 YEARS,
S/O. ABOOBACKER, AJMIMANZIL, NEAR KUMBIKKAL
(VENGAVILA VEEDU), NADUMURUPPU,PATHIRIKKAL MURI,
PATHANAPURAM VILLAGE, KOLLAM DISTRICT.

BY ADV. SRI.BIMAL K.NATH
SRI.S.JAMAL
SRI.E.M.SUNIL KUMAR
SMT.SMITHA DIVAKARAN
SRI.SREEVALSAN.V

RESPONDENTS: COMPLAINANT:

STATE OF KERALA,
REP. BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 12/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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B.A.No. 6723 of 2007

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Dated this the 12th day of November, 2007

O R D E R

Application for regular bail. The petitioner is the sole accused in a crime registered for offences punishable, inter alia, under Sections 376 and 307 I.P.C. An allegation is also raised under the provisions of the Scheduled Caste/Scheduled Tribes (Prevention of Atrocities) Act. The petitioner was allegedly having an extra marital relationship with the victim, a girl aged about 19 years and belonging to the Scheduled Caste. They have allegedly been indulging in sexual relations. On the date of occurrence i.e. 27.9.2007, the victim went out of her house giving some other excuse and allegedly proceeded to the woods nearby, where she had sexual intercourse with the petitioner. The victim allegedly wanted the petitioner to take her to her house and leave her there. The petitioner did not oblige. There was some quarrel between the two. At this point of time, the petitioner is alleged to have caused the death of the victim by

strangulating her. She allegedly became unconscious. The petitioner allegedly went away from the scene. Later, the relatives of the victim girl found her missing. They went on a search for her. She was later found unconscious in the woods, where she allegedly had sexual intercourse with the petitioner. Crime has been registered. Investigation is in progress. The petitioner was arrested on 4.10.2007 and he continues in custody from that date.

2. The learned counsel for the petitioner submits that the allegations are totally false. Even going by the version of the prosecution, the allegation of rape cannot on the face of it be accepted. As regards the allegation under Section 307 I.P.C. is concerned, very serious doubts and reservations are aroused on the basis of the version of the victim herself. According to the petitioner, the allegations are false. The victim may be attempting to avoid an allegation of attempt to commit suicide and that version is more probable, urges the learned counsel. At any rate, the petitioner, who has remained in custody from 4.10.2007, may not be compelled to remain in custody any longer, submits the learned counsel. Subject to appropriate conditions, the

petitioner may now be enlarged on bail, prays the learned counsel for the petitioner.

3. The learned Prosecutor does not oppose the application. He only submits that appropriate conditions, which shall facilitate a fair, efficient and expeditious investigation, may be imposed.

4. I have perused the case diary. I have considered the submissions made at the Bar. In the facts and circumstances of the case, the petitioner can be enlarged on bail, subject to appropriate conditions, I am satisfied.

5. In the result:

1) This application is allowed.

2) The petitioner shall be released on bail on the following terms and conditions.

(a) The petitioner shall execute a bond for Rs.50,000/- (Rupees fifty thousand only) with two solvent sureties each for the like sum to be satisfaction of the learned Magistrate.

(b) He shall make himself available for interrogation before the Investigating Officer on all Mondays and Fridays between 10 a.m. and 12

noon for a period of two months and thereafter as and when directed by the Investigating Officer in writing to do so.

(c) Except for the purpose of complying with condition No.(b) above, the petitioner shall not enter the Sessions Division of Kollam during the said period of two months, without the prior permission of the learned Magistrate.

(R. BASANT)
Judge

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